IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.M.No.4082-C of 2006 in
R.S.A.No.1616 of 2006
Date of Decision:- 03.11.2006

Karnail Singh ....Appellant.

through
Mr.P.S.Jammu, Advocate.

vs.

Jagsir Singh & ors. ....Respondents.

through
None.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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SURYA KANT, J.

C.M.No.4082-C of 2006

For the reasons mentioned in the application, the same is allowed. The delay of 1 day in filing the appeal is condoned, subject to all just exceptions.

C.M. stands disposed of.

R.S.A.No.1616 of 2006

This regular second appeal is preferred by the plaintiff whose suit for declaration for permanent injunction on the premise that he has become owner in possession of the subject property by way of adverse possession, has been dismissed by both the Courts.

Briefly stated, the dispute pertains to ownership and possession over an agricultural land measuring 7 kanals 3 marlas situated within the revenue estate of Ram Nagar, Tehsil Dabwali, District Sirsa which is fully descripted in the headnote of the plaint. On a consideration of the

documentary evidence consisting of the revenue record, both the Courts have concurrently held that from the Jamabandi for the year 1946-47, it stands established that one Rattan Singh was owner of the land which at that time was being cultivated by Bhag Singh through Jagir Singh. Bhag Singh, however, died issueless and is stated to have executed a Will in favour of the appellant in terms whereof, the appellant came into possession of the subject land somewhere in the year 1970-71 which is duly reflected in the Jamabandi for the said year. The revenue record, however, describes his possession as *BILLA LAGAN BA WAJAH NAA HONE TABDIL KABJA,* meaning thereby that the appellant or his predecessors were not paying any rent to the owners of the land. This entry continues to be shown in the revenue record of the subsequent years also as is reflected in the later *Jamabandies* Exs. P-3 to P-12.

Interpreting the aforesaid entry and rightly so, both the Courts below have held that though the appellant is in continuous possession of the subject land but he has been in 'permissive possession' thereof without paying any rent to the owner. No evidence, much less convincing, has been led by the appellant to show that at any point of time, he questioned the title of the true owners and/or acted hostile to their title.

The above-stated conclusion drawn by both the Courts, being a pure finding of fact, does not give rise to any substantial question of law for consideration of this Court. Consequently, I do not find any merit in this appeal which is accordingly dismissed.

November 03, 2006 **(SURYA KANT)**
poonam **JUDGE**